



2026:CGHC:12832



2026:CGHC:12832

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 346 of 2023

U Chudamani Patnayak S/o Shri U Laxminarayan Patnayak, Aged About 44 Years
Presently Posted As Training Officer, Trade - Diesel Mechanic, Posted At
Government Industrial Training Institute (I.T.I.), Suregaon, District Balod (C.G.),
Permanent Resident Of Parmarbada, Post - Dongargarh, District Rajnandgaon
Chhattisgarh

... Petitioner.

versus

**1 - State Of Chhattisgarh Through - Secretary, Department Of Skill Development
Technical Education And Employment, Mantralaya, Mahanadi Bhawan, Naya
Raipur, District Raipur Chhattisgarh.**

**2 - Director, Directorate Of Employment And Training, Indrawati Bhavan, Naya
Raipur Atal Nagar, District Raipur Chhattisgarh**

**3 - Joint Director, Directorate Of Employment And Training, Divisional Office,
Durg, District Durg Chhattisgarh.**

**4 - Principal, Government Industrial Training Institute, Suregaon, District Balod
Chhattisgarh.**

... Respondents.

For Petitioner(s)	:	Shri Pritam Singh, Advocate.
For State/Res	:	Shri Sangharsh Pandey, GA.

**Hon'ble Mr. Justice Amitendra Kishore Prasad****Order on Board****17/03/2026**

1. This Writ Petition has been filed being aggrieved by the order dated 07.12.2021 (Annexure P/4) passed by Respondent No.2 rejecting representation of the petitioner stating that there is no provision in the service rules with regard to regularization of Guest Lecturer.
2. Following reliefs have been sought by the petitioner before this Court:-
 - 10.1 That, the Hon'ble Court may kindly be pleased to issue a writ of mandamus directing the respondents to take steps to regularize the petitioner in the post of trainer (Diesel Mechanic Trade) and further direct to grant consequential benefits, in the interest of justice.
 - 10.2 Any other relief which this Hon'ble Court may deem and proper in the present circumstances of the case.
3. Necessary facts of the case are that the petitioner joined on the post of guest faculty/trainer in Diesel Mechanic trade in Industrial Training Institute, Dongargarh on 21.10.2008. Copy of the joining letter dated 21.10.2008 is filed herewith as Annexure P/1. It is pertinent to mention that the appointment of the petitioner was pursuant to an advertisement for the same post. The petitioner applied for the post and thereafter merit list was published in which the petitioner was selected. The petitioner had requisite educational and technical qualification required under the rule. The appointment of the petitioner was against the sanctioned vacant post



available with the department. In the selection rules regarding reservation roster and age were also followed. Appointment was made by competent authority. Meaning thereby, the petitioner was legally appointed. The post was of Guest Faculty at daily wage basis but the entire recruitment was akin to a regular recruitment. The petitioner was duly qualified on the date of appointment and till date his service has been satisfactory. That, the petitioner has been working in this post since 21.10.2008 continuously and has completed about more than 13 years in this post. The service of the petitioner was at the behest of department. His services were regularly required by the department. There was no break in service except the artificial break. The service continued till date without any intervention of the order of the court but it was on the basis of mutual acceptance by both petitioner and the department. The employment of the petitioner was not litigious employment. That, the grievance of the petitioner is that despite having completed 13 years of service uninterruptedly, he is not been regularize on the said post. That, previously petitioner had filed a writ petition bearing registration no. WPS/5395/2021 wherein by order dated 04.10.2021, this Hon'ble High Court directed the petitioner to make a fresh representation with the department and department was directed to take appropriate decision on the claim of regularization within a period of 4 months. That, in compliance of the above order of the High Court, the petitioner filed a representation to the Director and Secretary of the concerned department with the copy of order of the high court and again



requested for regularization of service in the post of Training Officer in Diesel Mechanics trade. That, on 07.12.2021, the representation of the petitioner was rejected and impugned order was passed. In the impugned order the claim of regularization was rejected on the sole ground that there is no provision in the service rules regarding regularization of guest faculty. That, the state government has framed a policy of regularization on 05.03.2008 which applies to all the departments of the state government. Hence it is incorrect to say there is no provision for regularization for guest faculty employed on daily wage basis. Copy of the policy of regularization dated 05.03.2008 is filed herewith as Annexure P/5. That, presently guidelines dated 12.03.2019 governs the appointment and service conditions of the guest faculties. Clause 1 of this guidelines itself shows that the appointment of the guest faculty is carried out against sanctioned vacant post based upon requirement of posts send by the Regional Joint Directors. That, the respondent department has convened several meetings for the purpose of raise of wages. The minutes of this meetings dated 19.07.2018, 30.06.2018, 27.11.2021 and 30.11.2021 record that the guest faculty discharge their functions like the regular faculties. The petitioner work for 8 hours or more every day though their work hour is officially shown as 5 hours. That, the regular appointment in the post of trainer is governed by Chhattisgarh Industrial Training (Non-gazetted) Class-III Service Recruitment Rules-2014. The rules lays down the qualification for appointment of trainer for different trades of Industrial



Training. This rule substantiates that the qualification which is required for guest faculty is same with that of regular trainer. That, the petitioner and other similarly placed guest faculties are entrusted with the task of completing the entire syllabus. They conduct exam and check answer sheets. Thus, they virtually discharge every functions which are assigned to a regular employee. The Petitioner is eligible for regularization in all aspects. That, under the constitutional scheme, a person should not be kept in temporary basis for a very long time. Temporary appointment for a long time abhors the constitutional ethos. That, the petitioner who has completed more than 10 years cannot seek employment in any other method as he has already crossed maximum age of direct recruitment. It will be unjust to continue him on temporary basis. Hence this petition.

4. Learned counsel for the petitioner submits that the appointment of the petitioner was as similar to that of a regular employee. Meaning thereby, the petitioner was legally appointed. The post was of Guest Faculty at daily wage basis but the entire recruitment was akin to a regular recruitment. The petitioner was duly qualified on the date of appointment and till date his service has been satisfactory. The petitioner has been working in this post since 21.10.2008 continuously and has completed about more than 13 years in this post. The service of the petitioner was at the behest of department. His services were regularly required by the department. There was no break in service except the artificial break. The service continued till date without any intervention of the order of the court but it was on the



basis of mutual acceptance by both petitioner and the department. The employment of the petitioner was not litigious employment. Because, clause 1 of guidelines dated 12.03.2019 which governs the appointment and service conditions of the guest faculties itself shows that the appointment of the guest faculty is carried out against sanctioned vacant post based upon requirement of posts sent by the Regional Joint Directors. Because, Chhattisgarh Industrial Training (Non-gazetted) Class-III Service Recruitment Rules-2014 substantiates that the qualification which is required for guest faculty is same with that of regular trainer. He submits that the petitioner virtually discharge every functions which are assigned to a regular employee. The Petitioner is eligible for regularization in all aspects. Under the constitutional scheme, a person should not be kept in temporary basis for a very long time. Temporary appointment for a long time abhors the constitutional ethos. The petitioner who has completed more than 10 years cannot seek employment in any other method. It will be unjust to continue him on temporary basis. The impugned order dated 07.12.2021 is contrary to constitutional bench judgment in **State of Karnataka Vs, Umadevi** (2006) 4 SCC 1. Paragraph 53 of the said judgment reads as under:-

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* [(1967) 1 SCR 128 : AIR 1967 SC 1071] , *R.N. Nanjundappa* [(1972) 1 SCC 409 : (1972) 2 SCR 799] and *B.N. Nagarajan* [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in



duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment..... ”

5. Learned counsel for the petitioner further submits that in the matter of **State of Karnataka vs. ML Kesari** reported in **{(2010) 9 SCC 247}**, the Hon'ble Supreme Court in paragraph 7 held as under:-

7. It is evident from the above that there is an exception to the general principles against “regularisation” enunciated in *Umadevi* (3) [(2006) 4 SCC 1] , if the following conditions are fulfilled:

(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.

(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.”

6. Considering the backdrop, learned counsel for the petitioner prays for grant of reliefs as sought by the petitioner.



7. On the other hand, learned State counsel submits that this petition lacks merits and is liable to be dismissed. He submits that petitioner is claiming to be working on the post of Guest Faculty/Trainer for more than 13 years continuously, therefore, is claiming regularization. It would be apposite to mention here that the petitioner does not fall into the category of daily-wager or a contract employee or an ad-hoc employee. The petitioner was working on hourly basis and was paid on the basis of hours of teaching/training. The petitioner was engaged on honorarium basis. The engagement of the petitioner was for academic session which was extended from time to time. The petitioner with all knowledge of the nature of the appointment and with open eyes and without any demur had accepted the appointment. It was well known to the petitioner that the appointment would come to an end on expiry of the academic session and extended every year by the concerned Educational Institution. Since from the inception of the service as Guest Faculty, the petitioner had knowledge of the tenure appointment, now the petitioner cannot claim that he was continuously in service for more than 13 years. The appointment of the Guest Faculty is a tenure appointment and the appointment comes to an academic end with completion of tenure. It is well settled legal principle that the High Courts under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open



competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right. Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates. Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularization or permanent continuance of part-time temporary employees. Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the



Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. In **Uma Devi (supra)**, the Hon'ble Supreme India has directed the Union of India, State Government and their instrumentalities to take steps to regularize as one time measure, the services of the such irregularly appointed, who have worked for 10 years or more in duly sanctioned posts but not under cover of orders of the Court or Tribunals. The Hon'ble Supreme Court has further directed that there should be no further bypassing of the constitution and regularizing or making permanent, those not duly appointed as per the constitutional scheme. It is respectfully submitted that in compliance of the orders passed by the Hon'ble Supreme Court in the case of **Uma Devi (supra)** the State of Chhattisgarh issued Circular dated 05.03.2008 launching the scheme for one time regularization of dailywager, adhoc employees. According to the Circular dated 05.03.2008 dailywagers, adhoc employees appointed on or before 31.12.1988 and continuing without break till the date of consideration and those who were appointed irregularly and not illegally were to be regularized according to the scheme. That, the primary requirement of the scheme of 05.03.2008 is that the employee should be engaged in service on or before 1997 and in continuous service of 10 years on the date of consideration for regularization. In the present case, the petitioner has not been engaged in service on or before 1997, therefore, the petitioner will not come under the purview of the Circular dated



05.03.2008 which has been issued in compliance of the Hon'ble Supreme Court's order. Copy of Circular dated 05.03.2008 filed herewith as ANNEXURE R/1. It is respectfully submitted that the creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of selection etc. are matters which fall within the exclusive domain of the employer. It is respectfully submitted that the judgment of Constitution Bench in **Uma Devi** (supra) is binding on the State Government till it is overruled by a larger Bench of the Hon'ble Supreme Court.

8. Learned State counsel submits that in case of **Official Liquidator Vs. Dayanand and others reported in (2008) 10 SCC 1**, the three Judges Bench of the Hon'ble Supreme Court held that:

75. By virtue of Article 141 of the Constitution, the judgment of the Constitution Bench in Secretary, State of Karnataka vs. Uma devi (supra) is binding on all courts including this Court till the same is overruled by a Larger Bench.

90. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The Learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and Law Laid down by coordinate and even Larger Benches by citing minor difference in the facts as the ground for doing so.



Therefore, it has become necessary to reiterate that disrespect to constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance Litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in last six decades and increase in the frequency of conflicting Judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass root will not be able to decide as to which of the judgment Lay down the correct Law and which one should be followed.

91. We may add that in our constitutional set up every citizen is under a duty to abide by the Constitution and respect its ideals and institutions. Those who have been entrusted with task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the Constitutional ideals. This principle is required to be observed with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and Legal issues and protect and preserve rights of the individuals and society



as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the Courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the Law.

9. I have heard learned counsel for the parties and perused the material available with the petition.
10. From the perusal of record it appears that the petitioner is contending that he is working on the vacant post of Trainer/Guest Faculty, trade Diesel Mechanic in the Industrial Training Institute, Dongargarh Rajnandgaon since the year 21.10.2008, however, neither any advertisement nor any documents which would show that the petitioner was appointed on vacant post since the year 2008, has been filed.
11. Further, it has been pleaded by the petitioner that he is working in the ITI, Dongargarh since 2008 under vacant post of Trainer/Guest Faculty and therefore, he may be regularized. In order to get appointed on the said post on regular basis, the petitioner has to undergo the process of regular recruitment which is apparent from the recruitment rules namely Chhattisgarh Industrial Training (non-gazetted) Class-III Service Recruitment Rules, 2014. Under the said rules, for getting regular appointment, the process of regular recruitment is to be undergone by the petitioner. Though the petitioner is having requisite qualification, however,



documents annexed with the petition would show that he has been temporarily appointed on the post of Trainer/Guest Faculty and is working since 21.10.2008 and this by itself does not give any right to the petitioner to avoid regular recruitment process and seek regularization stating that he has been working on vacant post since long back where there is specific recruitment rules and the petitioner cannot be appointed through via media. He has to undergo process of regular recruitment as per Rules of 2014.

12. It appears that regular recruitment process is not being initiated since long back, as such, on temporary basis, the petitioner has been appointed as Guest Faculty/trainer. Hence, claim of the petitioner for grant of regularization would not be lawful and only on the basis that he is working on the said post since long back, he cannot be granted benefit of regularization on the said post where regular process of recruitment is required for.
13. Though the petitioner is contending that he has been appointed on a vacant post after due verification, however, no such documents have been annexed with the petition which would show that the petitioner was appointed along with other persons pursuant to any advertisement and that he was serving in a sanctioned post.
14. The Circular which has been issued by the State Government dated 05.03.2008 is for regularization of class-III and class IV employees who were appointed before 1997 and in continuous service for last 10 years or more till the said circular has been issued. It was a one time measure for



the said employees. However, in the present case, petitioner claims that he was appointed in the year, 2008.

15. In the present case, at the expense of repetition, neither any advertisement nor select list or appointment order has been annexed with the petition showing that the petitioner was selected on the basis of advertisement after following due process of recruitment. As such, in view of this Court, the claim of the petitioner for regularization cannot be allowed.

16. However, it will be open for the respondent authorities to pass appropriate order in respect of service of the petitioner as well as likewise aspirants who are working since long back i.e. for 10-12 years in accordance with appropriate rules, in accordance with law.

17. With the aforesaid observation, this Writ Petition is disposed of.

Sd/-
(Amitendra Kishore Prasad)
Judge